

1 Title: To enhance public safety by making more spectrum available to public safety agencies, to
2 facilitate the development of a wireless public safety broadband network, to provide standards
3 for the spectrum needs of public safety agencies, and for other purposes.
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5

6 Be it enacted by the Senate and House of Representatives of the United States of America in
7 Congress assembled,

8 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

9 (a) Short Title.—This Act may be cited as the “Broadband for First Responders Act of 2011”.

10 (b) Table of Contents.—The table of contents for this Act is as follows:

11 Sec.1.Short title; table of contents.

12 **TITLE I—ALLOCATION AND ASSIGNMENT OF** 13 **PUBLIC SAFETY LICENSES**

14 Sec.101. Findings.

15 Sec.102. Allocation and assignment of public safety licenses.

16 Sec.103. Standards.

17 Sec.104. Rule of construction.

18 **TITLE II—FUNDING**

19 Sec.201.Definitions.

20 Sec.202.Funding.

21 Sec.203.Public safety interoperable broadband network construction.

22 Sec.204.Public safety interoperable broadband maintenance and operation.

23 Sec.205.Audits

24 Sec.206. Auction of spectrum to fund the interoperable broadband network construction fund,
25 and the operation and maintenance fund.

26 Sec.207. Achieving long-term interoperability by consolidating band use by public safety
27 agencies

28 Sec.208. Extension of auction authority and assurance of open auctions.

29 Sec. 209. Report on efficient use of public safety spectrum.

30 Sec.210. Report on long-term interoperability using IP-based solutions.

31 **TITLE I—ALLOCATION AND ASSIGNMENT OF** 32 **PUBLIC SAFETY LICENSES**

33 **SEC. 101. FINDINGS.**

1 The Congress finds the following:

2 (1) The communications capabilities of first responders and other public safety agencies
3 directly affect the public safety of the people of the United States and our national security.

4 (2) As events such as the terrorist attacks of September 11, 2001 and Hurricane Katrina
5 revealed, the inability of local, State, tribal, and Federal first responders to communicate
6 effectively during an emergency impairs operations to respond to terrorist acts and natural
7 disasters.

8 (3) Many public safety communications systems rely on commercially available systems
9 that lack broadband capabilities or otherwise fail to provide the level of service necessary to
10 meet the mission-critical needs of public safety agencies.

11 (4) A wireless public safety broadband network is needed to guarantee priority access for
12 public safety use and first responder interoperability across the United States.

13 (5) Allocating the paired electromagnetic spectrum bands of 758–763 megahertz and
14 788–793 megahertz, referred to as the D Block, to public safety agencies will fulfill public
15 safety agencies needs for sufficient spectrum and would help reduce the complexity and
16 future operating cost of public safety communications systems.

17 (6) Because the communications needs of public safety agencies may differ by
18 geographic region (including whether they require a dedicated communications system or
19 can rely on a system shared with commercial users), each region requires flexibility to
20 develop a model that meets its local needs without sacrificing the interoperability of the
21 nationwide system.

22 (7) The most timely and cost-effective way to achieve nationwide interoperability in
23 public safety communications will be to leverage commercial infrastructure without
24 compromising the mission-critical needs of public safety agencies.

25 (8) The use by public safety agencies of standardized technologies commonly employed
26 in the commercial telecommunications sector will provide significant benefits, including
27 improved capabilities, greater economies of scale, and more rapid adoption of technological
28 innovations.

29 (9) When it is in the interest of public safety, the Federal Communications Commission
30 should encourage any public safety licensee or spectrum lessee to consider using existing or
31 planned commercial infrastructure.

32 **SEC. 102. ALLOCATION AND ASSIGNMENT OF** 33 **PUBLIC SAFETY LICENSES.**

34 (a) Spectrum Allocation.—Section 337(a) of the Communications Act of 1934 (47 U.S.C.
35 337(a)) is amended—

36 (1) in paragraph (1), by striking “24” and inserting “34”; and

37 (2) in paragraph (2), by striking “36” and inserting “26”.

38 (b) Assignment.—Section 337(b) of the Communications Act of 1934 (47 U.S.C. 337(b)) is
39 amended to read as follows:

1 “(b) Assignment.—

2 “(1) IN GENERAL.—Not later than 60 days after the date of enactment of the Broadband
3 for First Responders Act of 2011, the Commission shall allocate the paired electromagnetic
4 spectrum bands of 758–763 megahertz and 788–793 megahertz for public safety broadband
5 communications and shall license such paired bands to the public safety broadband licensee.

6 “(2) ESTABLISHMENT OF RULES.—

7 “(A) IN GENERAL.—The Commission shall establish rules to permit the public safety
8 broadband licensee to authorize providers of public safety services to construct and
9 operate a wireless public safety broadband network in the spectrum licensed to the
10 public safety broadband licensee if the public safety broadband licensee determines
11 that such authorization would expedite the deployment of public safety broadband
12 communications.

13 “(B) NETWORK REQUIREMENTS.—The Commission shall require that any such
14 wireless public safety broadband network shall—

15 “(i) be fully interoperable and remain interoperable with, and in conformance
16 with the same broadband technology standards as, all other public safety
17 broadband systems deployed or authorized;

18 “(ii) provide for roaming by local, State, tribal, and Federal governments and
19 other authorized users of the spectrum licensed to the public safety broadband
20 licensee;

21 “(iii) provide priority access to public safety agencies;

22 “(iv) be built to survive most large-scale disasters;

23 “(v) ensure that networks of such systems have the appropriate level of cyber
24 security;

25 “(vi) ensure that authorized users have control over all local network uses
26 consistent with rules established by the Commission; and

27 “(vii) be consistent with the Statewide Interoperable Communications Plans
28 adopted by each State and the National Emergency Communications Plan, as
29 adopted by the Department of Homeland Security.

30 “(C) DEADLINES.—

31 “(i) RULES.—The Commission shall establish rules under this paragraph not
32 later than 9 months after the date of enactment of the Broadband for First
33 Responders Act of 2011.

34 “(ii) REPORT.—

35 “(I) IN GENERAL.—Not later than 60 days after the date of enactment of
36 the Broadband for First Responders Act of 2011, the public safety broadband
37 licensee shall submit a report to the appropriate committees of Congress on
38 the phased network deployment plan of such spectrum bands.

39 “(II) DEFINITIONS.—For purposes of subclause (I), the term ‘appropriate

committees of Congress means—

“(aa) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(bb) the Committee on Commerce, Science, and Transportation of the Senate;

“(cc) the Committee on Energy and Commerce of the House of Representatives; and

“(dd) the Committee on Homeland Security of the House of Representatives.”.

(c) Network-Sharing Agreements.—Section 337 of the Communications Act of 1934 (47 U.S.C. 337) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

“(f) Rulemaking Required.—The Commission shall establish regulations to—

“(1) authorize the shared use of the public safety broadband spectrum and network infrastructure by entities that are not defined as public safety services in subsection (g)(1), subject to the requirement that public safety services retain priority access to the spectrum, pursuant to procedures adopted by the Commission, so long as the needs of other governmental entities needs are considered before commercial entities;

“(2) allow use of the public safety broadband spectrum by emergency response providers, as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101

(d) Definition.—Section 337(g) of the Communications Act of 1934 (as so redesignated) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (3) and (4), respectively; and

(2) by inserting before paragraph (3), as so redesignated, the following:

“(1) PUBLIC SAFETY BROADBAND LICENSEE.—The term ‘public safety broadband licensee’ means a licensee as defined by the Commission in its Second Report and Order adopted July 31, 2007 (FCC 07–132), and selected in the Commission’s Order adopted November 19, 2007 (FCC 07–199), by the Commission to be the licensee for spectrum between 763–768 and 793–798 megahertz.

“(2) PUBLIC SAFETY BROADBAND SPECTRUM.—The term ‘public safety broadband spectrum’ means the electromagnetic spectrum between 758 megahertz and 768 megahertz, inclusive, and 788 megahertz and 798 megahertz, inclusive, and any additional electromagnetic frequencies allocated by the Commission for public safety broadband use.”.

SEC. 103. STANDARDS.

(a) Interoperability Requirements.—Not later than 180 days after the date of enactment of this Act, the Chairman of the Federal Communications Commission, in consultation with the

1 Director of the National Institute of Standards and Technology, the Secretary of Homeland
2 Security, the Attorney General, and local, State, tribal, and Federal public safety agencies, shall
3 develop a public safety agency statement of requirements that enables nationwide
4 interoperability and roaming across any communications system using public safety broadband
5 spectrum, as defined in section 337(g) of the Communications Act of 1934.

6 (b) Specifications.—The Secretary of Homeland Security, in coordination with the Director of
7 the National Institute of Standards and Technology, shall establish an appropriate standard, or set
8 of standards, for meeting the public safety agency statement requirements developed under
9 subsection (a), taking into consideration—

10 (1) the extent to which particular technologies and user equipment are, or are likely to be,
11 available in the commercial marketplace;

12 (2) the availability of necessary technologies and equipment on reasonable and non-
13 discriminatory licensing terms;

14 (3) the ability to evolve with technological developments in the commercial marketplace;

15 (4) the ability to accommodate prioritization for public safety transmissions;

16 (5) the ability to accommodate appropriate security measures for public safety
17 transmissions; and

18 (6) any other considerations the Federal Communications Commission deems
19 appropriate.

20 **SEC. 104. RULE OF CONSTRUCTION.**

21 Nothing in this Act, or the amendments made by this Act, shall be construed to overturn,
22 supersede, or otherwise preempt the Federal Communication Commission's Order adopted on
23 November 19, 2007 (FCC 07–199), setting forth the roles and responsibilities of the public safety
24 broadband licensee (as such term is defined in section 337(g) of the Communications Act of
25 1934) and the Federal Communications Commission, except that the following may, by rule or
26 order, be modified by the Commission:

27 (1) Any organization seeking membership to the board of directors of the public safety
28 broadband licensee may be voted in by a simple majority of the then serving members of
29 the Board of Directors.

30 (2) The Board of Directors of the Public Safety Broadband Licensee shall include the
31 following organizations:

32 (A) International Association of Chiefs of Police.

33 (B) International Association of Fire Chiefs.

34 (C) National Sheriffs' Association.

35 (D) International Association of Fire Fighters.

36 (E) National Volunteer Fire Council.

37 (F) Fraternal Order of Police.

38 (G) Major Cities Chiefs Association.

1 (H) Metropolitan Fire Chiefs Association.
2 (I) Major County Sheriffs' Association.
3 (J) Association of Public-Safety Communications Officials, International.
4 (K) National Emergency Management Association.
5 (L) International Association of Emergency Managers.
6 (M) Police Executive Research Forum.
7 (N) National Criminal Justice Association.
8 (O) National Association of Police Organizations.
9 (P) National Organization of Black Law Enforcement Executives.
10 (Q) Association of Air Medical Services.
11 (R) Advocates for Emergency Medical Services.
12 (S) Emergency Nurses Association.
13 (T) National Association of Emergency Medical Services Physicians.
14 (U) National Association of Emergency Medical Technicians.
15 (V) National Association of State Emergency Medical Service Officials.
16 (W) National Emergency Medical Services Management Association.
17 (X) International Municipal Signal Association.
18 (Y) American Probation and Parole Association.
19 (Z) National Governors Association.
20 (AA) National Association of Counties.
21 (BB) National League of Cities.
22 (CC) United States Conference of Mayors.
23 (DD) Council of State Governments.
24 (EE) International City/County Managers Association.
25 (FF) National Conference of State Legislatures.
26 (GG) National Association of Regional Councils.
27 (HH) Utilities Telecom Council.
28 (II) American Association of State Highway Transportation Officials.
29 (JJ) American Hospital Association.
30 (KK) Forestry Conservation Communications Association.
31 (LL) National Association of State 911 Administrators.
32 (MM) National Troopers Coalition.
33 (NN) National Emergency Numbers Association.

TITLE II—FUNDING

SEC. 201. DEFINITIONS.

In this title—

(1) the term “Assistant Secretary” means the Assistant Secretary of Commerce for Communications and Information;

(2) the term “appropriate committees of Congress” means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

(B) the Committee on Commerce, Science, and Transportation of the Senate;

(C) the Committee on Energy and Commerce of the House of Representatives; and

(D) the Committee on Homeland Security of the House of Representatives;

(3) the term “Construction Fund” means the Public Safety Interoperable Broadband Network Construction Fund established under section 202;

(4) the term “Maintenance and Operation Fund” means the Public Safety Interoperable Broadband Network Maintenance and Operation Fund established under section 202; and

(5) the term “Secretary” means the Secretary of Homeland Security.

SEC. 202. FUNDING.

(a) Establishment of Funds.—

(1) CONSTRUCTION FUND.—

(A) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the Public Safety Interoperable Broadband Network Construction Fund.

(B) PURPOSE.—The Secretary shall establish and administer the grant program under section 203 using the funds deposited in the Construction Fund.

(C) CREDIT.—

(i) BORROWING AUTHORITY.—The Secretary may borrow from the general fund of the Treasury beginning on October 1, 2011, such sums as may be necessary, but not to exceed \$2,000,000,000, to implement section 203.

(ii) REIMBURSEMENT.—The Secretary of the Treasury shall reimburse the general fund of the Treasury, without interest, for any amounts borrowed under clause (i) as funds are deposited into the Construction Fund, but in no case later than December 31, 2014.

(2) MAINTENANCE AND OPERATION FUND.—

(A) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the Public Safety Interoperable Broadband Network Maintenance and Operation Fund.

1 (B) PURPOSE.—The Secretary shall use the funds deposited in the Maintenance and
2 Operation Fund to carry out section 204.

3 (b) Initial Distribution of Auction Proceeds in Funds.—Notwithstanding subparagraphs (A)
4 and (D) of section 309(j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)), the
5 Secretary of the Treasury shall deposit the proceeds (including deposits and upfront payments
6 from successful bidders) from the auction of the spectrum described in section 205 in the
7 following manner:

8 (1) All proceeds less than or equal to \$5,500,000,000 shall be deposited in the
9 Construction Fund and shall be made available to the Secretary without further
10 appropriations.

11 (2) Any proceeds exceeding \$5,500,000,000 shall be deposited in the Maintenance and
12 Operation Fund and shall be made available to the Secretary without further appropriations.

13 (c) Transfer of Funds at Completion of Construction.—The Secretary of the Treasury shall
14 transfer to the Maintenance and Operation Fund any funds remaining in the Construction Fund
15 after the date of the completion of the construction phase, as determined by the Secretary.

16 (d) Transfer of Funds to Treasury.—The Secretary of the Treasury shall transfer to the general
17 fund of the Treasury any funds remaining in the Maintenance and Operation Fund after the end
18 of the 10-year period following receipt of notice by the Secretary of Homeland Security that
19 construction of the nationwide system has been completed.

20 (e) Authorization of Appropriations.—

21 (1) CONSTRUCTION FUND.—There are authorized to be appropriated to the Secretary for
22 deposit in the Construction Fund in and after fiscal year 2012 an amount not to exceed the
23 amount set forth in paragraph (3).

24 (2) MAINTENANCE AND OPERATION FUND.—There are authorized to be appropriated to the
25 Secretary for deposit in the Maintenance and Operation Fund in and after fiscal year 2012
26 an amount not to exceed the amount set forth in paragraph (3).

27 (3) LIMITATION.—The authorization of appropriations under paragraphs (1) and (2) may
28 not exceed a total of \$5,500,000,000.

29 **SEC. 203. PUBLIC SAFETY INTEROPERABLE** 30 **BROADBAND NETWORK CONSTRUCTION.**

31 (a) Construction Grant Program Establishment.—The Secretary shall take such action as is
32 necessary to establish a grant program to assist public safety entities to establish a nationwide
33 public safety interoperable broadband network in the 700 megahertz band.

34 (b) Projects.—The projects for which construction grants may be made under this section are
35 the following:

36 (1) Construction of a new public safety interoperable broadband network using public
37 safety infrastructure or commercial infrastructure, or both, in the 700 megahertz band.

38 (2) Improvement of the existing public safety and commercial networks and construction
39 of new infrastructure to meet public safety requirements.

1 (c) Matching Requirements.—

2 (1) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this
3 section may not exceed 80 percent of the eligible costs of carrying out a project, as
4 determined by the Secretary in consultation with the Chairman of the Federal
5 Communications Commission.

6 (2) NON-FEDERAL SHARE.—The non-Federal share of the cost of carrying out a project
7 under this section may be provided through an in-kind contribution.

8 (d) Requirements.—Not later than 6 months after the date of enactment of this Act, the
9 Secretary shall establish grant program requirements including the following:

10 (1) Defining entities that are eligible to receive a grant under this section.

11 (2) Defining eligible costs for purposes of subsection (c)(1).

12 (3) Determining the scope of network infrastructure eligible for grant funding under this
13 section.

14 (4) Conditioning grant funding on compliance with the Federal Communications
15 Commission's license terms.

16 (5) Ensuring that all grant funds are in compliance with and support the goals of the
17 National Emergency Communications Plan and the Statewide Communication
18 Interoperability Plans for each state and territory.

19
20 (e) Technical Assistance—The Secretary will enhance the Office of Emergency
21 Communications Technical Assistance Program to assist grantees with best practices and
22 guidance in implementing these projects.

23
24 **SEC. 204. PUBLIC SAFETY INTEROPERABLE**
25 **BROADBAND MAINTENANCE AND OPERATION.**

26 (a) Maintenance and Operation Reimbursement Program.—The Secretary shall administer a
27 program through which not more than 50 percent of maintenance and operational expenses
28 associated with the public safety interoperable broadband network may be reimbursed from the
29 Maintenance and Operation Fund for those expenses that are attributable to the maintenance,
30 operation, and improvement of the public safety interoperable broadband network.

31 (b) Report.—Not later than 7 years after the commencement of the reimbursement program
32 established under subsection (a), the Secretary shall submit to Congress a report on whether to
33 continue to provide funding for the Maintenance and Operation Fund following completion of
34 the period provided for under section 202(d).

35 **SEC. 205. AUDITS.**

36 (a) In General.—Not later than 3 years after the date of enactment of this Act, and every 3
37 years thereafter, the Comptroller General of the United States shall perform an audit of the
38 financial statements, records, and accounts of the—

1 (1) Public Safety Interoperable Broadband Network Construction Fund established under
2 section 202(a)(1);

3 (2) Public Safety Interoperable Broadband Network Maintenance and Operation Fund
4 established under section 202(a)(2);

5 (3) construction grant program established under section 203; and

6 (4) maintenance and operation grant program established under section 204.

7 (b) GAAP.—Each audit required under subsection (a) shall be conducted in accordance with
8 generally accepted accounting procedures.

9 (c) Report to Congress.—A copy of each audit required under subsection (a) shall be
10 submitted to the appropriate committees of Congress.

11
12 **SEC. 206. AUCTION OF SPECTRUM TO FUND THE**
13 **INTEROPERABLE BROADBAND NETWORK**
14 **CONSTRUCTION FUND, AND THE OPERATION AND**
15 **MAINTENANCE FUNDS.**

16 (a) In General.—

17 (1) REALLOCATION OF SPECTRUM.—Not later than 1 year after the date of enactment of
18 this Act, the Assistant Secretary shall reallocate for commercial use electromagnetic
19 spectrum at 1755 – 1780 megahertz.

20 (2) AUCTION.—Not later than 18 months after the date of enactment of this Act, the
21 Federal Communications Commission shall establish rules for pairing electromagnetic
22 spectrum bands at 1755-1780 megahertz and 2155-2180 megahertz, inclusive, and auction
23 the licenses for such paired spectrum in accordance of Section 309 (j)

24 **SEC. 207. ACHIEVING LONG-TERM**
25 **INTEROPERABILITY BY CONSOLIDATING BAND USE**
26 **BY PUBLIC SAFETY.**

27 (a) Mandating Migration of Public Safety Entities and Federal Law Enforcement:

28 (1) Require Migration by Public Safety Entities – Not later than 8 years after the date
29 of enactment of the Act, each public safety entities shall end their use of radio
30 spectrum above 420 megahertz and below 512 megahertz and begin to use alternative
31 radio spectrum licensed to public safety services in the 700 megahertz and 800
32 megahertz bands.

33 (2) Require Use by Federal Law Enforcement.—Not later than 10 years after the date
34 of enactment of this Act, each Federal law enforcement agency shall move all of their
35 communications, not being carried on commercial networks, to spectrum located in the
36 700 megahertz and 800 megahertz bands.

1
2 (b) GAO Study.—Not later than 3 years after the date of enactment of this Act, the Comptroller
3 General of the United States shall conduct a study and submit a report to the appropriate
4 committees of Congress that identifies those parts of the radio spectrum above 174
5 megahertz and below 512 megahertz used by public safety entities that should be returned
6 to the Federal Communications Commission for auction in accordance with subsections (d).

7
8 (c) Migration Plan Developed by FCC and DHS.

9 (1) IN General. – Not later than 6 years after the date of enactment of this Act, the
10 Federal Communications Commission, in consultation with the Secretary, the Assistant
11 Secretary, and Federal, State and local public safety agencies, shall issue a report, detailing
12 the plan for public safety entities to end their use of radio spectrum above 170 megahertz
13 below 512 MHz and move all use to the radio spectrum licensed to public safety services, in
14 the 700 megahertz and 800 megahertz bands.

15
16 (2) FACILITATION OF MIGRATION.—The Secretary shall make amounts available out
17 of the maintenance and operation grant program established under section 204 to facilitate
18 the migration of public safety entity use of the radio spectrum licensed to public safety
19 services in the 700 MHz and 800MHz bands in accordance with the plan developed under
20 paragraph (1).

21 (e) Recovered Public Safety Spectrum.—

22 (1) Auction. – Not later than 10 years after the date of enactment of this Act, the paired
23 electromagnetic spectrum bands of 420 – 440 megahertz and 450 – 470 megahertz
24 recovered as a result of the report and order required under subsection (c) shall be auctioned
25 off by the Federal Communications Commission through a system of competitive bidding
26 meeting the requirements of section 309 of the Communications Act of 1934.

27 (2) Encouraged Use of Certain Authority. – In making the recovered spectrum identified
28 under paragraph (1) available through auction, the Commission is encouraged to use its
29 authority under sections 303 and 316 of the Act to configure the spectrum in a manner that
30 increases the value of the recovered spectrum for commercial use.

31 (3) Proceeds. – Notwithstanding any other provision of law, all proceeds (including
32 deposits and upfront payments from successful bidders) from the auction required under this
33 subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31,
34 United States Code.
35

36 **SEC. 208. EXTENSION OF AUCTION AUTHORITY AND** 37 **INSURANCE OF OPEN AUCTIONS.**

38 (1) Extension of Auction Authority.—Section 309(j)(11) of the Communications Act of 1934
39 (47 U.S.C. 309(j)(11)) is amended by striking “2012” and inserting “2020”.
40

(2) ELIGIBILITY.—The Commission shall ensure that no bidder is deemed ineligible for or otherwise excluded from an auction specified in this Act, or any other competitive bidding process under section 309(j) of the Communications Act, on account of its size or amount of its other spectrum holdings.

SEC. 209 REPORT ON EFFICIENT USE OF PUBLIC SAFETY SPECTRUM.

Not later than 3 years after the date of enactment of this Act and every 3 years thereafter, the Federal Communications Commission shall conduct a study and submit to the appropriate committees of Congress a report –

- (1) on the spectrum held by the public safety broadband licensee;
- (2) on how efficiently such spectrum is being used; and
- (3) that provide a recommendation for whether more spectrum needs to be made available to meet the needs of public safety entities.

SEC. 210. REPORT ON LONG-TERM INTEROPERABILITY USING IP-BASED SOLUTIONS.

Not later than 2 years after the date of enactment of this Act, the Federal Communications Commission, in consultation with the Secretary of Homeland Security and the Assistant Secretary, shall issue a report and order, after allowing time for notice and comment, including comment from public safety users, and submit such report the appropriate committees of Congress, on whether Internet Protocol-enabled solutions could aid interoperability.